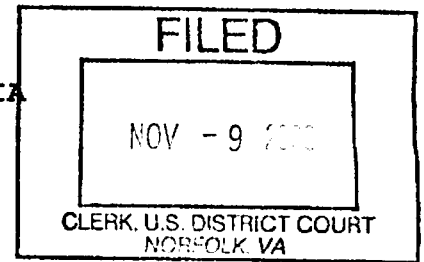


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



MARQUIS D. DAVIS, #11299-171,

Petitioner,

v.

ACTION NO. 2:09cv131

WARDEN STANSBERRY,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2241. The petition alleges an incorrect computation of petitioner's sentence regarding time served in federal and state custody pertaining to petitioner's conviction for interference with commerce by threats or violence, in the District Court for the District of South Carolina, as a result of which he was sentenced to eighty-four (84) months in the federal penal system.


The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. Report of the Magistrate Judge was filed on October 20, 2009, recommending granting petitioner's Motion to Voluntarily Dismiss his petition and dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings

and recommendations made by the Magistrate Judge. The Court has received no objections to the United States Magistrate Judge's Report and Recommendation and the time for filing same has expired.

The Court does hereby accept the findings and recommendations set forth in the report of the United States Magistrate Judge filed October 20, 2009, and it is therefore ORDERED that the Motion to Voluntarily Dismiss the petitioner's petition for a writ of habeas corpus be GRANTED and the petition be DISMISSED with prejudice. Consequently, it is further ORDERED that respondent's Motion to Dismiss and petitioner's Motion for Summary Judgment be DISMISSED with prejudice as moot.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 60 days from the date of entry of such judgment.

The Clerk shall mail a copy of this Final Order to the petitioner and to counsel of record for the respondent.

/s/
Rebecca Beach Smith
United States District Judge 

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

November 6, 2009